

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING / GENERAL MEETING
MARCH 24, 2015**

Place: Room 119, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Cameron, Cunningham, DiDonna, Olvany, Sini, Jr., Voigt

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat
Channel 79

Chairman Cameron opened the meeting at 8 P.M. and read the first agenda item:

GENERAL MEETING

Update on Town Moratorium application from First Selectman Jayme Stevenson.

Chairman Cameron announced that the discussion on the Moratorium application has been postponed until a Special Meeting on March 31, 2015.

Chairman Cameron then took the agenda items out of order slightly to discuss 13 Grove Street. She then read the following agenda item:

Discussion, deliberation and possible decision on the following application:

Special Permit Application #277-B/Amendment of Business Site Plan #248, Day Street Development, LLC, 13 Grove Street. Request for Le Boudoir, a personal service use, for a 1,250+/- square foot portion of the first floor of the building at 13 Grove Street. *DECISION DEADLINE: 4/30/2015.*

The following motion was made: That the Planning & Zoning Commission waive the process of reading the draft resolution aloud because each member has had an opportunity to review the draft prior to the meeting. The motion was made by Mr. Cunningham, seconded by Mr. Voigt and unanimously approved.

Commission members reviewed the revised draft resolution. They discussed several modifications and clarifications and agreed upon those. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. DiDonna, seconded by Mr. Olvany and unanimously approved. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
March 24, 2015**

Application Number: Special Permit Application #277-B/Amendment of Business Site Plan #248

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Street Address: 13 Grove Street
Assessor's Map #73 as Lots #15 & #16

Name and Address of Property Owner: Day Street Development, LLC
And Applicant: 84 Hobsen Street
Stamford, CT 06902

Name and Address of Applicant's Representative: Amy Zabetakis, Esq.
Rucci Law Group
19 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Request for Le Boudoir, a personal service use, for a 1,250+/- square foot portion of the first floor of the building at 13 Grove Street.

Property Location: The subject property is located on the southwest corner formed by the intersection of Day Street and Grove Street.

Zone: CBD

Date of Public Hearing: February 24, 2015

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: February 13 & 20, 2015

Newspaper: Darien News

Date of Action: March 24, 2015

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
April 2, 2015

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 650, 905, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted proposed floor plan, and the statements of the property owner and applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject application is to establish a personal service use, Le Boudoir, for an approximately 1,250+/- square foot portion of the first floor of the existing building at 13 Grove Street. This property is within the Central Business District (CBD) zone, which allows Personal Service Businesses as a Principal Use Requiring a Special Permit pursuant to Section 654 of the Zoning Regulations.

DESCRIPTION OF SUBJECT PROPERTY AND PRIOR SITE PLAN APPROVAL

2. The subject property contains two buildings, the “front” building with an address of 1015 Boston Post Road, and the “back” building with an address of 13 Grove Street. The 1015 Boston Post Road building is two stories, with part of the first floor now containing BlueMercury. The remainder of the first floor of that building is now vacant. The second floor of that building has been approved for and now contains three residential apartments. The 13 Grove Street building also now has three residential apartments on the second floor. Its first floor is now entirely vacant. As noted in the November 19, 2014 letter from Milone and MacBroom, the project was approved by the Planning and Zoning Commission with twelve on-site shared parking spaces in 2008 and those spaces have now been constructed and are in use.
3. As part of the original site plan for the property, approved by the Planning & Zoning Commission in June 2008, both buildings were proposed as, and approved for, retail use on the first floor, and three apartments on the second floor of each building. As noted in the applicant’s November 19, 2014 letter from Milone and MacBroom, 2,800-2,900+/- square feet of first floor retail space was approved in each of the two buildings at 1015 Boston Post Road and 13 Grove Street.

SUBSEQUENT REVIEWS AND COMMISSION ACTIONS REGARDING THIS PROPERTY

4. Since that 2008 approval, there have been proposals before the Planning and Zoning Commission for first floor uses on the premises which are not retail. One of those was for Massage Envy, a personal service use, in all of the first floor and part of the second floor of the 1015 Boston Post Road building. Massage Envy was denied by the Planning and Zoning Commission. Another proposal was for a 1,900+/- square foot wine bar/restaurant, with associated 750 square foot retail wine store in the first floor of the 13 Grove Street building. That wine bar/restaurant/retail wine store application/request was eventually withdrawn by the applicant. The Commission also had an informal discussion with a possible applicant/tenant for 1,000 square feet of first floor space at 13 Grove Street who performed botox injections and laser treatments. No formal application was ever put forth for that use at this location. Subsequently, in 2014, BlueMercury was approved for a portion of the first floor within the 1015 Boston Post Road building. As part of that BlueMercury retail use, there is an associated area within the space where makeup can be applied.
5. A more recent application made in late 2014 was for this same Le Boudoir use in this same first floor space (Special Permit Application #277-A/Business Site Plan #248). A public hearing was held by the Planning and Zoning Commission and closed, and prior to the Commission deciding the matter, the application was withdrawn on January 30, 2015. The subject application is essentially the same as that late 2014 application. One difference however, is that since that time, the Board of Selectmen, acting in their role as Parking Authority, has modified the restrictions on the Grove Street municipal parking lot. This change, which is expected to occur on or about April

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1, 2015, will move commuters out of that lot and have the lot for customers/shopper use only. This lot consists of 57 parking spaces, and is directly across Grove Street from the subject use.

6. Approximately 1,500 square feet will still be available in this building at 13 Grove Street if Le Boudoir is approved, and approximately 746 square feet of first floor retail space is still available in the 1015 Boston Post Road building.

DESCRIPTION OF PROPOSED USE AND OPERATIONS

7. The proposal is to establish Le Boudoir, which is a business that provides hair blow-out services and related cosmetic sales and services. In the center area of the store, there will be display and sales of retail products. This display and sales area is centrally located so that as clients are located in the store they can see the products for sale. The application notes that the business includes the following:
 - a) Hair services, with the most popular being the Blow Dry. At the public hearing, the owner/operator said that they only blow out hair—they do not provide hair cutting or hair coloring services;
 - b) Makeup services;
 - c) Bridal services—including haircare, makeup, organic airbrush tanning, and eye lash extension (the spray tanning and eye lash extension are exclusively performed on brides);
 - d) Retail component, where hair products and makeup are sold;
 - e) A VIP room/bridal boutique, which includes retail sales of wedding dresses, candles, jewelry and gift products.
8. Le Boudoir included an 8-1/2" x 11" undated, untitled floor plan in the application. This floor plan shows: eight styling chairs (for hair blow-out and for make-up application); three shampoo beds; and a VIP room (which contains two other styling chairs and one shampoo bed); and areas of product display. At the public hearing it was noted that on a typical busy weekday, the owner/operator might have 5 of the 6 seats occupied by customers being serviced and two more people having their hair washed. It was also noted that there is a VIP room/bridal boutique so that a small group of customers can have hair and make-up services as well spray tanning and other special services (the spray tanning and eye lash extension are exclusively performed on brides).
9. The proposed hours of Le Boudoir will be from 8:00 A.M. on Saturday, and from 9:00 A.M. on other days of the week until the early evening.
10. The owner/operator of Le Boudoir explained that the VIP room/bridal boutique is typically most used during the spring and summer months. He said it is not unusual for the bridesmaids to have their hair done while the bride is getting special treatment. He said this type of service often occurs early on Saturday mornings.
11. As noted at the public hearing by the applicant's attorney Amy Zabetakis, it is typical that Le Boudoir will be taking care of one blow dry client at a time per station. The maximum number of vehicles that would need parking could be calculated as two per station (eight styling chairs for hair blow-out and for make-up application--thus 16 vehicles). The application materials state that the business owner will arrange to have their employees park off-site. Attorney Zabetakis said that they are arranging to use the existing private Koons parking lot on Leroy and West Avenues for employees as necessary.

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12. It was noted that in general, appointments will last 30-45 minutes. Generally, there will be two busy times within the blow dry bar—first thing in the morning, and after 3pm. Saturday will be the peak day for use.
13. Attorney Zabetakis explained that the Board of Selectmen (Parking Authority) recently changed the restrictions within the Grove Street parking lot—that was confirmed in a memo from Karl Kilduff, Town Administrator, dated February 24, 2015. This municipal parking lot will be changed from commuter use to customer/shopper use. That Grove Street lot is now reserved for commuters in the morning, but after 10 A.M., it is available for customers/shoppers. It was noted that the switchover to customer/shopper parking only is scheduled to take effect on April 1, 2015, and thus, the lot still has commuter vehicles in it most of the day. The Commission finds that this change to the municipal lot across Grove Street from the subject use, will free up parking during the weekdays.
14. At the public hearing, it was noted that the existing shared parking agreement filed in the Darien Land Records for this building and 1015 Boston Post Road require that parking for residential and first floor retail customers be on-site. It does not allow employees of any of the first floor businesses to park on-site. The building owners are responsible for enforcing parking in the shared parking lot.
15. At the public hearing, one Commission member noted that in his visit to the New Canaan Le Boudoir, there was an on-site marked vehicle. Attorney Zabetakis said that parking of a Le Boudoir vehicle will not be done at the Darien site.

PARKING AND TRAFFIC

16. As part of this application, two letters from Milone and MacBroom were incorporated. One was dated November 19, 2014 and one was dated November 24, 2014. The November 19, 2014 letter notes that the time when downtown parking is most challenged is the weekday mid-day period, generally from twelve noon to 2pm.
17. The November 19, 2014 letter from Milone & MacBroom states that three recommendations should be considered. They are:
 - a) The staggering of appointments;
 - b) During peak parking crunch times (12 noon-2pm weekdays), an additional fifteen minutes between appointments could be added;
 - c) Valet parking option.The Commission finds that implementation of valet parking is not warranted at this point.
18. Albert Orlando of Day Street Development LLC, the property owner, conducted his own Parking Study recently. He counted numerous on-street, on-site, and municipal parking lot spaces that were available during all times of the day. Attorney Zabetakis said that the commuter parking spaces (including the 57 spaces within the municipal Grove Street parking lot) are not included in this count of available parking spaces. She said that it will be necessary for Mr. Orlando and the owner of the other building on the property to check the site periodically to make sure that the tenants continuously comply with all conditions of the lease, including making sure that the employees park off-site.

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19. The location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
20. The location and nature of the proposed use, is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
21. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
22. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
23. The elements of the Site Plan, submitted as part of the application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
24. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
25. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE, BE IT RESOLVED that Special Permit Application #277-B/Amendment of Business Site Plan #248 is hereby modified and granted subject to the foregoing and following stipulations, conditions, modifications and understandings which are necessary due to the change of the approved retail only use to this unique personal service business:

- A. The Commission is not approving the conversion of the space to a general personal service business use. It is approving only the specific use as described in detail in the application and at the Public Hearing. If, at some time in the future, the tenant and/or property owner wishes to change to a different personal service business or to expand the business in terms of additional space, hours of operation, services offered, or other aspects of the business, then prior review and action by the Planning & Zoning Commission is required. The establishment of the personal service use, Le Boudoir, shall be in accordance with the following plan submitted to the Commission, as may need to be modified by the Fire Marshal and/or the Building Official:
 - Undated, untitled floor plan showing eight styling chairs, three shampoo beds, and associated product display, along with the VIP room/bridal boutique.The Commission hereby limits the amount of styling chairs to eight and the number of shampoo beds to three.

CONDITIONS REGARDING THE ON-SITE OPERATIONS OF THE BUSINESS

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- B. During the public hearing and as part of the submitted application materials, the applicant and business owner noted that the proposal is for a blow dry bar with associated retail sales only. No salon services (such as, but not limited to, manicures, pedicures, facials, etc.) has been requested or is approved. The retail display and sales are an integral part of this approval. As noted within the application materials, the retail component will include, but not be limited to, hair and makeup products. The VIP section will also sell wedding dresses, candles, jewelry and other gift products. Spray tanning and eye lash extensions may be performed exclusively on brides.
- C. The hours of operation approved herein are a maximum of 8 A.M. to 9 P.M. seven days a week. Any expansion of the maximum hours of operation requires further review and action by the Planning and Zoning Commission.
- D. At the public hearing, the proposed business operator said that they can limit the number of operating stations during the lunchtime period to 3 or 4 during the 11am-3pm time period on weekdays to minimize parking impacts. In order to minimize traffic and parking impacts, the Commission hereby limits the number of operating stations to a maximum of four between 12 noon and 2 PM weekdays. The Commission does not put a limit on the number of operating stations on Saturday or Sunday or holidays.
- E. The November 19, 2014 Milone and MacBroom letter recommended a number of items for the Commission's consideration regarding on-site parking. The Commission hereby requires the implementation of two of these recommendations put forth by the applicant's traffic consultant. They are:
 - a) Appointments at stations open concurrently shall be staggered so that any potential station overlap of patrons is spread out and not concentrated in a single 15-minute period. The owner/operator noted that in order to minimize parking impacts, appointments will be staggered.
 - b) During the peak parking times (which the Commission hereby finds to be 12 noon to 2:00 p.m.) an additional 15 minutes between appointments shall be added. This will reduce the overlap of patrons in the facility at the same time.

CONDITIONS RELATED TO PARKING

- F. Because the Grove Street lot will not change over until April 1, 2015 at the earliest, a Certificate of Zoning Compliance/Certificate of Occupancy for this business cannot be issued, and the tenant cannot open the business until April 1, 2015.
- G. At the public hearing, the applicant and owner/operator put forth that employees not taking public transportation will park in the Koons parking lot at the corner of Leroy Avenue and West Avenue. That is an integral part of this approval. The Commission hereby requires that annual certification of such off-street parking be made by the owner/operator of the business to the Planning and Zoning Director. At the public hearing, the applicant agreed to add a clause to the tenant's lease stating that the tenant's employees may not be permitted to park on-site. The applicant agreed to provide that clause to the Planning and Zoning Commission as executed and initialed.

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- H. The subject on-site parking lot is a shared parking lot with the building at 1015 Boston Post Road. Section 905 of the Darien Zoning Regulations does not allow reserved parking spaces. Thus, no parking spaces can have signage reserving spaces for a specific tenant or use, and no formal or informal agreement made reserving on-site spaces for any business or residential use on-site.
- I. As the business operator agreed during the public hearing, since on-site parking is limited, there shall be no delivery or marked or unmarked business vehicle parked on-site. Although one on-site vehicle is now occasionally parked at the New Canaan Le Boudoir, none will be at the Darien store.

CONDITIONS REGARDING THE SITE PLAN

- J. Because of this property's first floor location in downtown Darien, it is essential that the front and side windows not be blocked with curtains or drapes. The Commission hereby requires that no curtains or drapes block the ability of the public to look into the building. Displays of retail products and other items in the windows are strongly encouraged.
- K. It was noted that one potted plant is required to be placed outside the building (similar to the one placed by the owner of 1015 Boston Post Road on Day Street) in lieu of the street trees which were on the original plan, and the approved site plan from 2008 shows an additional light pole in front of the building. These have still not been installed, and shall be installed prior to the issuance of a Certificate of Occupancy and the opening of the business.
- L. Because of the fact that all of the proposed work is interior work, and there is no new impervious surface proposed as part of this application, the Commission hereby waives the requirement for stormwater management under Sections 888a(3) and 888a(4).
- M. There shall be no wedding parties or similar large groups scheduled for the VIP room prior to 2 p.m. on weekdays. This will help minimize parking conflicts during the peak parking demand times in the area.
- N. In evaluating this application, the Planning & Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- O. The granting of this Special Permit does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. Zoning and Building Permits (with associated review by the Fire Marshal) are required for the interior tenant fit-up.
- P. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action by (March 24, 2016). This may be extended as per Section 1009.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents

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by the Chairman. Within sixty days of this action, and prior to the issuance of a Zoning or Building Permit for the interior tenant fit-up, a Special Permit form must be filed in the Darien Land Records or this approval shall become null and void. Any desired signage for this business requires review and action by the Architectural Review Board.

Ms. Cameron said that the 13 Grove Street project shares the same neighborhood as the development that could take place at 2 Squab Lane. She said that it had been approved a number of years ago but has not yet been built. She asked Mr. Ginsberg to prepare a detailed update regarding the status of that project. He agreed to submit something in the future.

Chairman Cameron read the following agenda item:

PUBLIC HEARING

Coastal Site Plan Review #184-C, Flood Damage Prevention Application #195-C, Land Filling & Regrading Application #102-C, Town of Darien, 36 and 30 Goodwives River Road, and 15 Morley Lane. Proposing to reconstruct the Upper Pond dam; construct a fish ladder; remove approximately 7,500 cubic yards of sediment from the lower portion of Upper Pond; restore aquatic and shoreline habitats of the Upper Pond; and perform related activities within regulated areas. The subject properties are located on the Goodwives River and: at 36 Goodwives River Road (Map #63, Lot #105); 30 Goodwives River Road (Map #63, Lot #104); and 15 Morley Lane (Map #63 Lot #55), approximately 1,500 feet south of its intersection with Old King's Highway South, R-1 Zone.

Kristin Connell of Fuss & O'Neill represented the applicant and explained that the work involves the proposed restoration in the Goodwives River and the ponds along the lower portion of the River. She said that the dredging project has been reduced substantially because one of the adjacent property owners does not want to allow access through their site. She said that the proposed new dam structure will have weirboards so that the level of the water can easily be adjusted and lowered in the future so that a pond can be dredged more easily if that work needs to be done. She said that the expected dredge material is likely to be very fine grain material that is not toxic but has been contaminated by asphalt fragments from uphill streets and the Turnpike. She said that once the material is allowed to dry out within the site, it will be loaded on to trucks and removed from the area. It will be brought to landfills outside Darien. She said that Connecticut Department of Energy & Environmental Protection (DEEP) and Army Corps of Engineer permits have already been submitted and are being reviewed at this time. She said that to dry out the dredged material, it will be stockpiled in the center of the large pond to allow it to be naturally de-watered over time. It is expected that there will be approximately 7,400 cubic yards of dredged material to be removed.

Ms. Cameron said that a fish ladder is part of the dredging and restoration project and that this will be a great benefit to the environment. Mr. DiDonna said that he is concerned about truck access and the staging area and then the access to the streets. He questioned how this might be done to minimize the impact to neighbors. Ms. Connell said that the project will take approximately six weeks from commencement to completion.

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There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this application. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron read the following agenda item:

Amendment of Special Permit Applications #22-O and 22-P, Coastal Site Plan Review #27-D and 27-E, Flood Damage Prevention Application #20-D and 20-E, Land Filling & Regrading Application #325, Tokeneke Club, Inc., 4 Tokeneke Beach Drive. Proposing to amend the previously approved plans for the clubhouse and bathhouse by modifying: the width of the service driveway; the tennis courts; and the lockers; and to perform related site development activities within regulated areas. The property is situated on the southeast corner of the intersection formed by Butler's Island Road and Tokeneke Beach Drive and is shown on Assessor's Map #67 as Lot #83, in the R-1 (residential) Zone.

Mr. DiDonna recused himself from the participation and he left the meeting room.

Attorney Wilder Gleason represented the Club and said that following the Commission's approval of the project, Club members decided that they wanted to have bigger family locker areas. Accordingly the Club now proposes to keep some of the family lockers on the north wall of the building that was to be removed. In order to do this, they will be reducing the distance or separation from the tennis courts to the locker room building. They will also be reducing the court length to 118 feet and reducing the width of the internal driveway down to 13 feet. The Fire Marshal has reviewed this and indicated that as long as the area is striped as a Fire Lane with no parking, he has no objection. Attorney Gleason said that the proposed family lockers will be five feet by five feet. In the discussion that followed, it was noted that the edge of the tennis courts closest to the street will not be changed. The overall length of the tennis courts will be reduced but the courts will not be any closer to the street. Attorney Gleason said that the lot coverage will not be changed. Mr. Ginsberg said that the Zoning Board of Appeals has reviewed this revised plan and they have approved it. Attorney Gleason and Architect Chris Pagliaro reviewed the modifications to the locker room building. Mr. Pagliaro said that there is approximately 650 square feet of changed area compared to the previously approved area. Attorney Gleason said that they still will be under the allowable building coverage. Commission members expressed a desire to maintain the size of the project going forward.

There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this application. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

Chairman Cameron read the following agenda item:

Business Site Plan #96-J/Special Permit, PAG Connecticut LR1, LLC, 1335 Boston Post Road. Proposal to construct additions and alterations to the existing building, and to perform related site development activities. The subject property is located on the northwest corner of the intersection formed by Boston Post Road and Thorndal Circle and is shown on Assessor's Map #39 as Lot#19, located in the SB (Service Business – commercial) Zone.

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Mr. DiDonna returned to the meeting.

Mr. Ginsberg indicated that since the facility has been and will be an automobile sales facility, any change does require Special Permit approval from the Commission. Even the modest changes they are requesting in the building need review and action by the Planning & Zoning Commission. Mr. Cunningham confirmed that this is the former Nissan dealership.

Jacek Bigosinski, Project Architect, submitted 12 copies of a revised plan to indicate that the two brands of automobile which are being sold on the site will be flip flopped. He said that the property at 1335 Boston Post Road has been acquired by the Penske Automotive Group and they will be selling Land Rover and Jaguar automobiles at the property. He said that the Land Rover dealership at 90 Boston Post Road will be relocated to 1335 Boston Post Road. He said that they are changing the front façade of the building and adding new signage and those plans are to be reviewed by the Architectural Review Board and Zoning Board of Appeals. Mr. Bigosinski said that the slight changes to the building include: rounding off the two front corners of the building; changing the entrance to the service bays; squaring off the zig-zag pattern on the north side of the service bay customer entrance area; and changing the pedestrian entrance porticos at the front section of the building. He said that the service entrance on the north side of the building will be shared by both brands that are sold on site. He said that the traffic flow around the building will remain unchanged.

In response to a question, Nolan Redding of Penske Automotive Group said that customers will be able to get a loaner car for the day that their vehicle is being serviced. There were questions regarding the number of vehicles in inventory, both new and pre-owned vehicles, the number of loaner cars, the number of employee vehicles, the number of customer parking spaces and the total on-site parking needs. There was also a question regarding the Land Rover test drive/rough area that currently exists at 90 Boston Post Road and whether it would be relocated to this site. Mr. Redding said that they want to get into the building at 1335 Boston Post Road as quickly as possible and the building needs to be renovated to allow that to occur. They will come back to the Commission if they want to relocate the test drive/rough area at this site. He said that he is not yet sure what will happen at the 90 Boston Post Road site. It is possible that it might be used for pre-owned vehicles to be sold by the Penske Automotive Group. In response to questions, he said that there would be no storage lifts or multi-level parking at this site.

Mr. Bigosinski said that the total proposed site development area will be less than 80% of the property and the total building coverage will be less than 20% of the property. He said that in previous years, the pavement/grass walkway areas from the parking lot to the building had been considered half landscaping and half site developed area but under the more recent survey, the land surveyor counted the entire walkway area as being site developed area. Under the revised plan, the total site developed area will be reduced to 80% of the lot area.

Mr. Ginsberg said that none of the proposed work is within the jurisdiction of the Environmental Protection Commission (EPC) and therefore a permit from the EPC will not be needed.

There was a question regarding the off-loading of vehicles and noted that it is not permitted to be conducted on the street. Mr. Bigosinski said that the plan is to have delivery vehicles back in to the site but occasionally a new driver might start to unload on the street. Commission members noted that the previously approved plan did require that the automobile transporting vehicles enter the

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north side of the site and loop around the back of the building and discharge the vehicles on the site. This will avoid the need to back into the south side of the site and will avoid on street off-loading.

There were no comments or questions from the public. The Commission members asked that the applicant provide the detailed information regarding the number of parking spaces and the applicant agreed. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this application and will render a decision at a future meeting. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

At about 8:45 p.m., Chairman Cameron read the following agenda item:

Land Filling & Regrading #160-A, David Jones, 93 Mansfield Avenue. Proposing to fill and regrade back yard and install new associated retaining wall, and to perform related site development activities. The subject property is located on the west side of Mansfield Avenue, approximately 20 feet northwest of its intersection with Roland Drive, and is shown on Assessor's Map #17 as Lot #27 in the R-1/3 Zone.

Mrs. Cameron noted that the Environmental Protection Commission (EPC) has not yet rendered a decision on this matter and therefore it will be necessary to continue the public hearing.

Allan Broadbent of Laurelrock Company explained that during the 2006 and 2007 construction of a house and development of this property, the drainage system was installed. They have performed on-site field verification of the depths of the drainage system and the infiltrator system and they have found that the infiltrator system is approximately three feet below grade (which is a little unusual). This will allow for easier accommodation of the proposed filling and regrading. Mr. Broadbent said that an as-built can be submitted, if required. Mr. Broadbent said they plan to remove many of the invasive species that are located in and adjacent to the wetlands and they will create a conservation easement to permanently protect the stream corridor area. Many of the previous plantings did not survive. They have had considerable contact with the neighboring property owners to discuss the proposed mitigation and regrading. Part of their plan involves construction of a 5.5 foot tall retaining wall that will be built in the embankment so that a larger flat backyard area will be created and then they will have a safety railing on top of that retaining wall. This will result in a series of smaller walls and terraces intermittently planted compared to the single large retaining wall that is located on the property to the north. Part of the regrading will lower the ground level close to the house and that material will be used as fill near the new retaining wall. Mr. Broadbent showed air photos of the neighboring properties.

Susan Skerrett said that she is concerned about the wetlands and she has reviewed the plans. She is in favor of the project as long as the wetlands are protected.

Ms. DeLoizada f 91 Mansfield Avenue said that she is concerned whether this filling and regrading will allow for any additional construction or buildings. The plans were reviewed and it was noted that at this time, the proposed work only involves landscaping and regrading. No building are proposed at this time, however if in the future the property owner wants to construct any buildings they will need to comply with the regular setback regulations and requirements. New buildings or structures could be allowed if they comply with the Regulations.

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It was decided to continue the public hearing regarding this matter on April 7, 2015. Commission members agreed that if the project is approved, detailed as built maps would be required.

At about 9:00 p.m., Chairman Cameron then read the following agenda item:

Subdivision Application #612-B, ASL Partners, LLC, 203 Long Neck Point Road. Proposal to subdivide a 2.8+/- acre property into two rear lots, each with a 25 foot access to Long Neck Point Road. The subject property is located on the east side of Long Neck Point Road approximately 1,200 feet south of its southernmost intersection with Pear Tree Point Road, and is shown on Assessor's Map #61 as Lot #9 in the R-1 Zone.

Attorney Amy Zabetakis explained that this proposed subdivision of a rear lot will result in two rear lots, each with its own access way from the street and each of the rear lots would front on the Long Island Sound. She said that the subdivision of the two front lots was approved in March of 2015 via a "free cut". Attorney Zabetakis said that exclusive of the access ways, one of which is on the north side and one of which is on the south side, each of the building lots is over one acre in size. She said that the applicant is only demonstrating the feasibility of development of both parcels. They are not looking to the Commission for specific approval to actually construct anything. They plan to sell all four building lots, two fronting on the street and two fronting on the water. The eventual owner or owners of the property would probably need to come back to the Commission for any of the proposed work within the critical 100 foot Coastal Area Management zone and/or if any of the work is in the Flood Zone.

Mr. DiDonna asked for an explanation about the driveways. Attorney Zabetakis said that on the north side of the property, there is a long access strip that is 25 feet wide that provides access to the rear lot that is adjacent to the water's edge. On the south side of the property, there is an additional 25 foot wide access strip that provides access from the street to the rear lot, which is adjacent to the water front. On the north side, access to proposed Lot 2A will be provided through the 25 foot access way. There is also a shorefront easement that exists through proposed Lot 2A. The shorefront easement allows property owners adjacent to Long Neck Point Road to get down to the water's edge. It prohibits the owner of Lot 2A from building or developing anything in that shorefront access easement. There is no shorefront easement on proposed Lot 2B. Attorney Zabetakis said that each of the two proposed waterfront lots complies with the Zoning Regulations with respect to size and shape and area.

Mr. Ginsberg said that he has received several emails and forwarded them to the Commission members and to Attorney Zabetakis.

Mr. Olvany said that currently there are two building lots on the front (adjacent to Long Neck Point Road) and one rear lot that has two access strips from the street to the rear lots. Now they are proposing two waterfront lots, each with its own access strip.

Mark Cohen of 201 Long Neck Point Road said that he too owns a rear lot in the vicinity and said that all the applicant is asking for is a subdivision; however, the result will be the development of the two waterfront properties in the future. He submitted an email from his neighbor, Mr. Himelick, who expresses concern about the possibility or likelihood of five driveways in that immediate vicinity. He had supported the previous proposal for the development of the entire property as one

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building lot until a new proposed tall retaining wall and high planting was proposed on the portion of the property close to the water. He said that that previous proposed wall and planting would have been near his lot and that demonstrates a lack of sensitivity of the developer. He said that if there are four proposed lots, it is logical that each lot would have their own driveway to Long Neck Point Road and this would result in the removal of more trees from the right-of-way. He said that there previously had been a commitment to preserve those trees. In particular, there is a large chestnut tree that is within the 25 foot accessway along the northerly property line. To facilitate the driveway construction, the chestnut tree would need to be removed. He said changing the dividing lines could or would allow for saving of that large tree and other large trees in that area. Mr. Cohen questioned the conceptual plan which shows a large rain garden that is within the Coastal Area Management Zone. He said the lower portion of the property does flood during storms and having a rain garden in that location does not make sense. He said that no calculations were submitted to verify that the rain garden would be large enough to accommodate all of the proposed impervious surfaces, including driveway, house, turnaround area and patio. He said that it might not be feasible to develop the land in accordance with what is shown and that might be discovered at a later point. He also noted that retaining walls would be necessary in order to construct the driveway at a proper slope. He also said that there might need to be some variances to implement the conceptual development as shown.

Mr. Olvany pointed out that the survey map and engineers plan did not appear to coincide. He said that the plans should show all of the major trees and how those trees can be preserved. Mr. DiDonna concurred that the large trees should be preserved. Attorney Zabetakis said that the proposed subdivision would be utilizing the existing access ways to the large rear lot and that the trees in that area are not a key feature. Mr. Olvany disagreed and said that the trees are a key feature to be preserved during this subdivision review process. Mr. Sini said that the focus should be on complying with all of the Subdivision Regulations, and the site map representing houses and drainage is a conceptual plan. Commission members agreed that it would necessary and appropriate to continue the public hearing regarding this matter on March 31, 2015.

Chairman Cameron then read the following agenda item:

GENERAL MEETING

Amendment of Special Permit Application #248-A/Site Plan, Estia's American, Boston Post Road. Request to change the fencing around their outside dining area, install a pergola with a retractable awning, and to eliminate the existing umbrellas.

David Genovese reviewed the plans for the construction of a fence to separate Estia's patio/porch area from the active driveway and parking lot and to create a pergola structure with retractable awning so that they would not need to use umbrellas that are adversely impacted by the wind. He said that they would also be changing from a brick surface to a wooden deck to get more of a feeling of a back porch. Mr. Ginsberg said that any changes cannot be approved by the staff but would be necessary for the Commission to review under the Business Site Plan and Special Permits that have been granted for the property. Mr. Genovese said that they have already visited with the Architectural Review Board that has granted preliminary approval for the signs. They will need to verify that the Architectural Review Board will approve the revised signage plan. The following motion was made: That the Planning & Zoning Commission agrees to amend the Business Site

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Plan and Special Permits to allow the back porch and fence enclosure and pergola structures in accordance with the submitted plans. The motion was made by Mr. Voigt, seconded by Mr. DiDonna and unanimously approved.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #297, Flood Damage Prevention Application #337, Brighton, 115 & 157 Long Neck Point Road. Requesting a 6 month extension of the permit to construct the pedestrian bridge between 115 Long Neck Point Road and Neds Island.

The Commission members reviewed the March 17 request from Tom Ryder for the six month extension. The following motion was made: That the Planning & Zoning Commission grant the six month requested extension for the installation of the pedestrian bridge connecting 115 Long Neck Point Road with Neds Island. The motion was made by Mr. Sini, seconded by Mr. Cunningham and unanimously approved.

Chairman Cameron read the following agenda item:

Amendment of Business Site Plan #146-C/Special Permit, Lithos, 319 Boston Post Road.
Request for live indoor music.

The request is to have one or two musicians play live acoustical instruments in the restaurant. Mr. Sini said that some of the neighbors in that area have spoken with him and as long as there is no amplification of the music and that none of the doors at the rear of the building are left open, the neighbors do not seem to have a problem. Ted Giapoutzis, owner/operator of Lithos restaurant, said they plan to open on April 15 and that they will continue to work with the neighboring property owners to make sure it is not a problem. Mr. Voigt and Commission members noted that there are several conditions and stipulations that would allow the acoustical music to be performed without adversely affecting the neighbors. The following motion was made: That the Planning & Zoning Commission approve the request for live music subject to the following conditions and stipulations and those are from the memo that Mr. Keating had submitted to the Commission in their packets on Friday. This includes, but is not limited to, doors and windows closed, no bands, and no amplifiers. Mr. Voigt confirmed that this is a one year approval. The motion was made by Mr. Sini, seconded by Mr. DiDonna and unanimously approved.

Chairman Cameron read the following agenda item:

Discussion, deliberation and possible decision on the following application:
Special Permit Application #286, Karen Hand, 132 Heights Road. Proposing to establish an acupuncture office in a portion of the first floor of the existing building at 132 Heights Road. The subject property is located on the north side of Heights Road approximately 625 feet west of its intersection with Noroton Avenue, and is shown on Assessor's Map #74 as Lot #14 in the Designed Commercial (DC) Zone.

The following motion was made: That the Planning & Zoning Commission waive the process of reading the draft resolution aloud because each member has had an opportunity to review the draft

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prior to the meeting. The motion was made by Mr. Sini, seconded by Mr. DiDonna and unanimously approved.

Several typographical errors and clarifications were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany and second by Mr. DiDonna. All voted in favor except Mr. Cunningham, who abstained. The motion passed by a vote of 5-0-1. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
March 24, 2015**

Application Number: Special Permit Application #286

Street Address: 132 Heights Road
Assessor's Map #74 as Lot #14

Name and Address of Applicant & Applicant's Representative:	Karen Hand 143 West Avenue Darien, CT 06820
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Name and Address of Property Owner:	FR Darien, LLC c/o Federal Realty Investment Trust 16226 East Jefferson St. Rockville, MD 20852
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Activity Being Applied For: Proposing to establish an acupuncture office in a portion of the first floor of the existing building at 132 Heights Road.

Property Location: The subject property is located on the north side of Heights Road approximately 625 feet west of its intersection with Noroton Avenue.

Zone: Designed Commercial (DC) Zone.

Date of Public Hearing: March 3, 2015 continued to March 17, 18 and 19, 2015

Time and Place: 8:00 P.M. Room 119 Town Hall

Publication of Hearing Notices Dates: February 20 & 27, 2015	Newspaper: Darien News
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Date of Action: March 24, 2015	Action: GRANTED WITH STIPULATIONS
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Scheduled Date of Publication of Action: April 2, 2015	Newspaper: Darien News
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The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 630, 905, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted proposed floor plan, and the statements of the property owner and applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject application is to establish an acupuncture office in a 700+/- square foot portion of the first floor of the existing building at 132 Heights Road. The applicant proposes to take less than one-half of the first floor, front area. It is a multi-tenanted building, with other commercial tenants, and there is now an apartment on the second floor of the building.
2. The subject property contains one building with some parking in the front and some in the rear of the building.
3. During the public hearing the applicant noted that at the present time, there will be one employee on-site. It is possible that in the future, a receptionist will be added. It is a low volume use, since it is rare to have more than two clients present on-site at any one time.
4. The location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
5. The location and nature of the proposed use, is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
6. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
7. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

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8. The elements of the Site Plan, submitted as part of the application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
9. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
10. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE, BE IT RESOLVED that Special Permit Application #286 is hereby modified and granted subject to the foregoing and following stipulations, conditions, modifications and understandings:

- A. The establishment of the acupuncture use shall be in accordance with the 8-1/2" x 11" floor plan submitted to the Commission, as may need to be modified by the Fire Marshal and/or the Building Official.
- B. Because there is no increase in impervious surface as part of this application, the Commission waives its requirement for stormwater management under Section 880 of the Darien Zoning Regulations.
- C. At the public hearing, the proposed business operator said that it is unlikely that there would be more than two clients on-site at any one time. Because of the fact that this use is in a commercial zone, and due to the nature of the proposed use, the Commission does not put a limit on the operating hours beyond those put forth by the applicant, 8 am to 6 pm Monday through Friday.
- D. If, at some time in the future, the property owner wishes to expand the business in terms of additional space, hours of operation, services offered, or other aspects of the business, then prior review and action by the Planning & Zoning Commission is required.
- E. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. The tenant fit-up work will require Zoning and Building Permits and review by the Fire Marshal.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- G. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action by (March 24, 2016). This may be extended as per Section 1009.

All provisions and details of the plan (as may be modified by the Fire Marshal or Building Official) shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. Within sixty days

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of this action, and prior to the issuance of a Zoning or Building Permit for the interior tenant fit-up, a Special Permit form must be filed in the Darien Land Records or this approval shall become null and void. Any desired signage for this business requires review and action by the Architectural Review Board.

Chairman Cameron read the following agenda item:

Deliberation only on the following:

Proposed Amendment to the Darien Zoning Map (COZM #2-2014), Special Permit Application #246-B/Site Plan #251-B, Land Filling & Regrading Application #184-B/lot line adjustment, Sun Homes Darien, LLC, 36, 42 (formerly 0), and 48 Wakemore Street. Proposing to establish the Designed Community Residential (DCR) overlay zone on parcels totaling approximately 2.49+/- acres, and razing the existing three structures on those properties and constructing ten new structures containing fourteen market rate units and two affordable units to become Kensett II, and performing related site development activities. *DECISION DEADLINE: 4/9/2015.*

Commission members discussed whether extending the overlay zone subject to conditions and stipulations will result in a development which is truly age targeted. Mr. Olvany said that the development is not designed for children because there are no parks or playgrounds or other recreation spaces other than the formal club house. Mr. Voigt said that the increase in density being granted by the Commission to the developer needs to benefit the entire community. He questioned what the Town was getting in exchange for allowing a higher density. Mr. DiDonna said the intent of the change of zone was to allow for adult or senior citizen oriented housing and the developer represented that there would be few if any children. The result has been that a number of school age children have moved into the development and the entire development is not yet completed. Mr. Olvany said that the Commission could approve the re-zoning of the property but not approve the Site Plan or the Special Permit. All Commission members agreed that the stormwater management aspects need to be corrected and addressed as part of the re-zoning and that it is appropriate to include the below market rate units on the site rather than having them off site or payment being made to the Affordable Housing Fund. Commission members discussed the density and concluded that there were too many units proposed in Kensett II and that the number of units should be reduced from 16 to 14. Mr. Cunningham expressed concern about the safety issue as children are waiting for the school bus near the intersection of Wakemore Street and Hoyt Street. There are many more children at the location then there used to be (prior to the development of Kensett). He said if there are any more fourth graders that enter the school system, it will necessitate adding another classroom for fourth graders. There was some discussion about giving more clear and definitive direction regarding the meaning of "age targeted marketing" rather than have units be age restricted. The stormwater management needs to be addressed in accordance with the comments from the engineer. The Commissioners all agreed that the creation of the inclusionary housing units that are below market rate should be accessed only through the existing Kensett Lane. They should not be separated from the rest of the developed and should not be accessed from Wakemore Street. There was some discussion about whether the owners of the below market rate units should have to pay the full homeowners association dues. The Commission discussed whether that the below market rate units should be restricted to senior occupancy only. There was a question of whether all the units of Kensett II should be restricted to senior occupancy only. All the Commission members agreed that the proposal to have 16 new units (14 of which would be market rate and 2 would be

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below market rate) was too dense. They agreed that at most there should only be 12 market rate units and 2 affordable units. The total number of new units would be 14.

Mr. Sini said that he wants to have a safe bus stop area created but acknowledged that it might not be possible because the proposed zone change area is far away from where the bus stop is at the intersection of Hoyt Street and Wakemore Street. Mr. Olvany said that it might be appropriate to create a pull aside area to widen the street so that there would be room for the cars to wait for the school bus without obstructing travel lanes. He also said that it might be appropriate to have 14 market rate units on the front parcel (adjacent to Hoyt Street) and then use the rear lot (where the development is currently proposed) as a turnaround at the end of Wakemore Street. There was some discussion about age targeting and whether that would necessitate a first floor master bedroom or requiring an elevator or merely by the way the units are marketed. Safety concerns might also be addressed by having a turnaround on Wakemore Street and/or a turnaround within the Kensett site. No action was taken but the staff was asked to draft a resolution for consideration at future meeting. The action deadline for this application is April 9.

Due to the late hour, the Commission did not discuss the remaining items on the agenda. The following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Mr. Voigt, seconded by Mr. Sini and unanimously approved. The meeting was adjourned at 10:55pm.

Respectfully submitted,

David J. Keating
Planning & Zoning Assistant Director

03.24.2015min